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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/713,578

11/13/2003

Sanjay Awasthi

124263-1006

8252

7590

06/28/2006

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EXAMINER

FETTEROLF, BRANDON J

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,578

Applicant(s)

AWASTHI ET AL.

Examiner

Brandon J. Fetterolf, PhD

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 9-46 and 48-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-8 and 47 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to the Amendment

The Amendment filed on 4/17/2006 in response to the previous Non-Final Office Action (12/12/2005) is acknowledged and has been entered. However, it is noted that the status of Claim 1 should indicate that it is "currently amended" and not "previously presented".

Claims 1-52 are currently pending.

Claims 9-46 and 48-52 are withdrawn from consideration as being drawn to non-elected inventions.

Claim 1-8 and 47 are currently under consideration.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Rejections Withdrawn:

The rejection of claims 1-3, 5-8 and 47 under 35 U.S.C. 102(b) as being anticipated by Awasthi et al. (Biochemistry 2001; 40: 4159-4168, IDS) has been withdrawn in view of applicants amendments. In the instant case, Awasthi et al. teach a method of preparing a proteoliposome comprising the step of contacting a liposome with an effective portion of RalBP1 to create a proteoliposome for the transport of toxic compounds (page 4161, 1st column, Functional Reconstitution in Proteoliposomes), wherein the proteoliposome is further added to doxorubicin or chochicine (page 4161, 2nd column, Transport Studies). Awasthi et al. do not explicitly teach a method of preparing a proteoliposome comprising the steps of contacting a liposome with an effective portion of RalBP1 in the presence of one or more toxic compounds to create a proteoliposome, e.g., a one step process.

All other rejections and/or objections are withdrawn in view of applicant's amendments and arguments there to.

New Rejections Necessitated by amendment:

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 and 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. THIS IS A NEW MATTER REJECTION.

Claims 1 and 47 have been amended to recite “[A] method of preparing a proteoliposome comprising the step of: contacting a liposome with an effective portion of RalBP1 in the presence of one or more toxic compounds to create a proteoliposome” However, a careful review of the specification, as originally filed, does not appear to have support for the limitation of “contacting a liposome with an effective portion of RalBP1 in the presence of one or more toxic compounds to create a proteoliposome.” (Emphasis added) In the instant case, the specification clearly sets forth that a proteoliposome is a protein and lectin or glycol- or phospholipid combination (page 7, paragraph 0020). Moreover, the specification teaches a method of preparing a proteoliposome comprising the step of contacting a liposome with an effective portion of RLIP76 to create a proteoliposome, wherein the proteoliposome may be further added to a toxic compound (page 4, paragraph 0011). Regarding the preparation of the proteoliposome, the specification appears to suggest that the proteoliposome is first made, and then added to one or more toxic compounds which is different from what is presently claimed because the current claims imply that all of the ingredients, e.g., liposome, effective portion of RalBP1, and a toxic compound, are all present in “one pot” and are used to create the proteoliposome. Applicant is invited to point to clear support or specific examples of the claimed limitation in the specification as-filed or remove such amendatory language in response to this action.

Therefore, No claim is allowed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J. Fetterolf, PhD whose telephone number is (571)-272-2919. The examiner can normally be reached on Monday through Friday from 7:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brandon J Fetterolf, PhD
Examiner
Art Unit 1642

BF
June 16, 2006


JEFFREY SIEW
SUPERVISORY PATENT EXAMINER